



the State of Delaware and has a place of business at 1 Dell Way, Round Rock, Texas 78682.

3. MASS is informed and believes, and on that basis alleges, that Defendant ERGOTRON, INC. (hereinafter referred to as “ERGOTRON”) is a corporation organized and existing under the laws of the State of Minnesota and has a place of business at 1181 Trapp Road, St. Paul, Minnesota 55121.

4. MASS is informed and believes, and on that basis alleges, that Defendant CDW CORPORATION (hereinafter referred to as “CDW”) is a corporation organized and existing under the laws of the State of Illinois and has a place of business at 200 N. Milwaukee Avenue, Vernon Hills, Illinois 60061.

5. MASS is informed and believes, and on that basis alleges, that Defendant TECH DATA CORPORATION (hereinafter referred to as “TECH DATA”) is a corporation organized and existing under the laws of the State of Florida and has a place of business at 5350 Tech Data Drive, Clearwater, Florida 33760.

6. MASS is informed and believes, and on that basis alleges, that Intervenor–Defendant DELL MARKETING L.P. (hereinafter referred to as “DMLP”) is a limited partnership organized and existing under the laws of the State of Texas and has a place of business at One Dell Way, Round Rock, Texas 78682.

7. DELL, CDW, TECH DATA, ERGOTRON, and DMLP are referred to hereinafter collectively as “Defendants.”

#### **JURISDICTION AND VENUE**

8. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* Venue is proper in this Federal Judicial District pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400 (b) in that Defendants have each done business in this District, have committed acts of infringement in this District, and continue to commit acts of infringement in this District, entitling MASS to relief.

**INFRINGEMENT OF U.S. PATENT NO. RE 36,978**

9. On November 18, 1997, U.S. Patent No. 5,687,939 was duly and legally issued for an invention entitled "Dual Display System." On December 5, 2000, Patent No. 5,687,939 was duly and legally reissued and assigned Patent No. RE 36,978 (the "'978 Patent"). JERRY MOSCOVITCH is and always has been the sole owner of the '978 Patent, and has licensed it exclusively to MASS ENGINEERED DESIGN, INC. Collectively, JERRY MOSCOVITCH and MASS ENGINEERED DESIGN, INC. hold all rights and interest in the '978 Patent.

10. DELL has infringed and continues to infringe the '978 Patent by its manufacture, use, sale, importation, and/or offer for sale of its multi-display units and by its contributing to and inducement of others to manufacture, use, sell, import, and/or offer for sale of infringing products. DELL is liable for infringement of the '978 Patent pursuant to 35 U.S.C. § 271.

11. CDW has infringed and continues to infringe the '978 Patent by its manufacture, use, sale, importation, and/or offer for sale of its multi-display units and by its contributing to and inducement of others to manufacture, use, sell, import, and/or offer for sale of infringing products. CDW is liable for infringement of the '978 Patent pursuant to 35 U.S.C. § 271.

12. ERGOTRON has infringed and continues to infringe the '978 Patent by its manufacture, use, sale, importation, and/or offer for sale of its multi-display arm units and by its contributing to and inducement of others to manufacture, use, sell, import, and/or offer for sale of infringing products. ERGOTRON's infringing acts include, but are not limited to, it supplying others, including DELL, DMLP, CDW, and TECH DATA, with multi-display arm units, and contributing to and inducing DELL, DMLP, CDW, TECH DATA, and such other entities to make and sell infringing products. ERGOTRON is liable for infringement of the '978 Patent pursuant to 35 U.S.C. § 271.

13. TECH DATA has infringed and continues to infringe the '978 Patent by its manufacture, use, sale, importation, and/or offer for sale of its multi-display units and by its

contributing to and inducement of others to manufacture, use, sell, import, and/or offer for sale of infringing products. TECH DATA's infringing acts include, but are not limited to, it supplying others with infringing multi-display units for resale, and by contributing to and inducing others to make and/or sell infringing products. TECH DATA is liable for infringement of the '978 Patent pursuant to 35 U.S.C. § 271.

14. DMLP has infringed and continues to infringe the '978 Patent by its manufacture, use, sale, importation, and/or offer for sale of its multi-display units and by its contributing to and inducement of others to manufacture, use, sell, import, and/or offer for sale of infringing products. DMLP is liable for infringement of the '978 Patent pursuant to 35 U.S.C. § 271.

15. In accordance with 35 U.S.C. § 287, MASS has marked the products manufactured and sold by MASS that fall within the claims of the '978 Patent. Defendants' acts of infringement have caused damage to MASS and MASS is entitled to recover from Defendants the damages sustained by MASS, including MASS' lost profits, as a result of Defendants' wrongful acts in an amount subject to proof at trial. Defendants' infringement of MASS' patent rights under the '978 Patent will continue to damage MASS, causing it irreparable harm for which there is no adequate remedy at law, unless enjoined by the Court. Considering the balance of hardships between MASS and Defendants, a permanent injunction is warranted. The public interest will not be disserved by entry of such an injunction.

16. At least DELL and ERGOTRON were notified that their conduct was infringing the '978 Patent. DELL and DMLP have stated in pleadings in this case that DMLP is the DELL entity that performs sales and marketing on behalf of DELL, and that actually performs the acts accused of infringement. After receiving notice from MASS, Defendants DELL, DMLP, and ERGOTRON refused to cease their infringement and, instead, continued to infringe and violate MASS' exclusive patent rights. Upon information and belief, no Defendant has ceased its infringement after learning of the '978 Patent or MASS' claims of infringement. Defendants' infringement of the '978 Patent

is willful and deliberate, entitling MASS to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

**JURY DEMAND**

17. MASS demands a trial by jury on all issues.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs JERRY MOSCOVITCH and MASS ENGINEERED DESIGN, INC. request entry of judgment in their favor and against Defendants including the following:

- a) A finding that Defendants have infringed U.S. Patent No. RE 36,978;
- b) A permanent injunction enjoining Defendants and their respective officers, agents, employees, and those acting in privity with them, from further infringement, contributory infringement and/or inducing infringement of U.S. Patent No 36,978;
- c) An award of the damages arising out of Defendants' infringement of U.S. Patent No. RE 36, 978;
- d) A finding that Defendants' infringement was willful and an award of enhanced damages pursuant to 35 U.S.C. § 284;
- e) A finding that this case is an exceptional case, and an award of attorneys' fees to MASS pursuant to 35 U.S.C. § 285 and/or as otherwise permitted by law;
- f) An award of pre-judgment and post-judgment interest in amounts according to proof;
- g) Costs of court; and
- h) For such other relief as the Court may deem as just and proper.

DATED: June 26, 2007

Respectfully submitted,

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ATTORNEYS FOR MASS ENGINEERED DESIGN,  
INC. AND JERRY MOSCOVITCH

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing instrument was filed electronically in compliance with Local Rule CV-5(a)(3) and has been served this 26th day of June, 2007 on the counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system. Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ Elizabeth L. DeRieux  
Elizabeth L. DeRieux